



City of Marietta

205 Lawrence Street
Post Office Box 609
Marietta, Georgia 30061

Meeting Minutes CITY COUNCIL

R. Steve Tumlin, Jr., Mayor
Annette Paige Lewis, Ward 1
Griffin "Grif" L. Chalfant, Jr., Ward 2
Johnny Sinclair, Ward 3
Irvan A. "Van" Pearlberg, Ward 4
Rev. Anthony C. Coleman, Ward 5
James W. King, Ward 6
Philip M. Goldstein, Ward 7

Wednesday, February 10, 2010

7:00 PM

Council Chamber

Presiding: R. Steve Tumlin, Mayor

Present: Philip M. Goldstein, Jim King, Rev. Anthony Coleman, Johnny Sinclair, Grif Chalfant, Annette Lewis and Van Pearlberg

Also Present:

William F. Bruton, Jr. City Manager

Douglas R. Haynie, City Attorney

Stephanie Guy, City Clerk

CALL TO ORDER:

Mayor Tumlin called the meeting to order at 7:10 p.m.

INVOCATION:

Mayor Tumlin gave the invocation.

PLEDGE OF ALLEGIANCE:

Mayor Tumlin called upon his wife Jean Alice Tumlin to lead the pledge of allegiance.

PRESENTATIONS:

20100112 Fire Department Class 2 Rating

Chief Jackie Gibbs accepts recognition for the Marietta Fire Department for obtaining Class 2 Rating from Insurance Services Organization (ISO).

This matter was Presented

20100149 Recognition of Outstanding Service

Recognition of Sergeant Brian Honea, Officer Matthew Parker, Officer Heath Edmondson, Officer Amy Valente, Detective Daniel Ohmann and Detective Shane Merritt for their outstanding efforts and dedication to duty for the events of January 23, 2010.

This matter was Presented

20100113 Recognition for Outstanding Service

Special recognition for Mohammed Ennin, Accountant in the Finance Department for his outstanding efforts in saving the city money through the *Alternative Tax Credit* program.

This matter was Presented

PROCLAMATIONS:**ANNOUNCEMENTS OF GENERAL COMMUNITY INFORMATION BY THE MAYOR, COUNCIL AND/OR CITY MANAGER:****CONSENT AGENDA:**

Consent agenda items are marked by an asterisk (*). Consent items are approved by majority of council. A public hearing will be held only for those items marked by an asterisk that require a public hearing (also noted on agenda).

The following amendments were made to the consent agenda:

A motion was made by Council member Goldstein, seconded by Council member King, to suspend the rules of order to add items to the consent agenda regarding a settlement agreement regarding property located at 567 Roswell Street, a Marietta Redevelopment Corporation employment contract decision and the acquisition of property located 619 North Fairground Street. The motion carried by the following vote:

*Vote: 7 – 0 – 0 Approved
(See agenda items 20100174, 20100181 and 20100184)*

-under Council Appointments: Agenda item 20100163 was added to the consent agenda.

-under Ordinances: Agenda item 20100127 was removed from the agenda.

-under Public Works: Agenda item 20100063 was added to the consent agenda. Agenda items 20091258 and 20100086 were added to the consent agenda as amended.

-under Other Business: Agenda item 20100164 was removed from the agenda. Agenda items 20100165, 20100166, 20100168, and 20100169 were added to the consent agenda.

Mayor Tumlin opened the public hearing for items on the consent requiring a public hearing. Seeing no one wishing to speak, the public hearing was closed.

A motion was made by Council member King, seconded by Council member Sinclair, to approve the consent agenda as modified. The motion unanimously carried by the following vote:

Vote: 7 - 0 - 0 Approved

with the following exceptions:

Council member Goldstein abstains on agenda items 20090772 and 20100063.

Council member Pearlberg abstains on agenda item 20090772.

Council member Grif Chalfant abstains on agenda item 20100066.

MINUTES:

- * 20100108 Regular Meeting - January 13, 2010**

Review and approval of the January 13, 2010 regular meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved
- * 20100109 Special Meeting - January 27, 2010**

Review and approval of the January 27, 2010 special meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved
- * 20100141 Special Meeting - February 3, 2010**

Review and approval of the February 3, 2010 special meeting minutes.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

MAYOR'S APPOINTMENTS:

- * 20100114 Ethics Committee Mayor Appointment**

Reappointment of Warren Herron to the Ethics Committee for a term of two years expiring on March 10, 2012.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 - 0 Approved

CITY COUNCIL APPOINTMENTS:*** 20100163 Cobb County Board of Health and Cobb County Community Services Board**

Appointment of Clark F. Hungerford to the Cobb County Board of Health and Cobb County Community Services Board to fill the unexpired term of Wyman Pilcher, expiring on December 31, 2010.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

ORDINANCES:*** 20091498 Z2010-01 Marietta Housing Authority 345 Fort Street**

Ord 7446 Z2010-01 [REZONING] MARIETTA HOUSING AUTHORITY request rezoning for property located in Land Lot 12160, District 16, Parcel 0160, 2nd Section, Marietta, Cobb County, Georgia and being known as 345 Fort Street from R-4 (Single Family Residential) to PRD-MF (Planned Residential Development Multi-Family). Ward 5.

Planning Commission recommends approval of zoning to PRD-MF with a variance to reduce the 30' buffer and include a privacy fence and an added stipulation to allow the submitted plan to also satisfy and serve as the Detail Plan.

Vote: 5-0-0

PUBLIC HEARING (all parties are sworn in)

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

*** 20100127 Code Enforcement - 436 Powder Springs Street**

An ordinance authorizing the removal of overgrown grass, weeds and obnoxious vegetation, along with trash and debris, rendering sanitary property in the corporate limits of the City of Marietta, Georgia at 436 Powder Springs Street.

Listed Owner: JWH Marietta LLC, c/o Rowe Properties

Repeat Violation History: (4) previous cases since November 20, 2007.

Certified mail receipt received January 14, 2010; signature not legible.

Taxes paid: Unpaid; owes \$1,337.79

Ward: 5A

PUBLIC HEARING REQUIRED

Philip M. Goldstein abstaining

This matter was Removed

RESOLUTIONS:**CITY ATTORNEY'S REPORT:****CITY MANAGER'S REPORT:****MAYOR'S REPORT:**

Mayor Tumlin called upon Council member Coleman to give a brief report regarding the recent Marietta Housing meeting.

COMMITTEE REPORTS:**1. Economic/Community Development: Grif Chalfant, Chairperson****2. Finance/Investment: Annette Lewis, Chairperson****3. Judicial/Legislative: Philip M. Goldstein, Chairperson****20100152 Mayoral Veto**

Any Motion related to the Mayor's veto of the Kennesaw Avenue Historic District Ordinance as presented under file number 20100084.

No Action Taken

4. Parks, Recreation and Tourism: Johnny Sinclair, Chairperson**5. Personnel/Insurance: Van Pearlberg, Chairperson****6. Public Safety Committee: Anthony Coleman, Chairperson****7. Public Works Committee: Jim King, Chairperson***** 20090772 Hansell Street**

Motion to authorize a one way traffic flow eastbound on Hansell Street between Waddell Street and Haynes Street and to authorize removal of the nine public parking spaces along the north side Hansell Street. Further, the deceleration lane shown on the diagram shall be incorporated, as stamped "Received by Public Works January 27, 2010".

This Matter was Approved on the Consent Agenda.

Vote: 5 - 0 - 0

Approved

Abstaining: Van Pearlberg and Philip M. Goldstein

* **20100063 North Marietta Parkway at Cole Street Intersection**

Motion authorizing donation of property to GA Dept of Transportation along North Marietta Pkwy as part of GDOT encroachment permit process for First Landmark Bank.

This Matter was Approved on the Consent Agenda.

Vote: 6 - 0 – 0 Approved
Abstaining: Philip M. Goldstein

* **20091262 2005 SPLOST Priority Schedule**

Motion to approve 2005 SPLOST Project Budget Modifications as shown on attached Project Budget Modification Table dated February 1, 2010.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20091258 Erosion Control Ordinance**

[Ord 7447](#)

Approval of revisions to the Soil Erosion and Sediment Control Ordinance as required by EPD.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20100086 Georgia Transmission Corporation**

Motion approving modification of North Marietta Substation Right of Entry.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

SCHEDULED APPEARANCES:

UNSCHEDULED APPEARANCES:

John Ferth, who resides at 1052 Brownstone Drive, expressed concern regarding the motion to approve 2005 SPLOST Project Budget Modifications. Agenda item 20091262 approved on the consent agenda.

OTHER BUSINESS:

20100065 [V2010-02] Waylon Hoge 2371 Delk Road

V2010-02 WAYLON HOGE request variances for property located in Land Lot 07980, District 17, Parcel 0140, 2nd Section of Cobb County,

Marietta, Georgia and being known as 2371 Delk Road. Variance to allow an off-premise sign for Howard Johnson along the Delk Road frontage, variance to allow an off-premise sign for Howard Johnson along the Powers Ferry Place frontage, variance to increase the maximum height of a sign for a shared commercial space from 15 feet to 30 feet along the Delk Road frontage, variance to increase the maximum area of a sign for a shared commercial space from 90 square feet to 127 square feet along the Delk Road frontage. Variance to increase the maximum area of a sign for a shared commercial space from 30 square feet to 50 square feet along the Powers Ferry Place frontage. Variance to allow the sign structure to exceed 90 s.f. for sign proposed along the Delk Road frontage. Ward 1.

Mayor Tumlin called forward those wishing to speak. City Attorney Douglas Haynie explained the rules of order.

Mrs. Kathy Zickert with Smith Gambrell and Russell, representing McDonald's, requested several variances for property located at 2371 Delk Road. The variances included an off-premise sign for Howard Johnson along the Delk Road frontage, variance to allow an off-premise sign for Howard Johnson along the Powers Ferry Place frontage, variance to increase the maximum height of a sign for a shared commercial space from 15 feet to 30 feet along the Delk Road frontage, variance to increase the maximum area of a sign for a shared commercial space from 90 square feet to 127 square feet along the Delk Road frontage. Variance to increase the maximum area of a sign for a shared commercial space from 30 square feet to 50 square feet along the Powers Ferry Place frontage. Variance to allow the sign structure to exceed 90 s.f. for sign proposed along the Delk Road frontage.

In depth discussion was held regarding the requested variances.

Mayor Tumlin closed the public hearing.

Motion to approve the following stipulations and variances for property located in LL 07980, 17th District, Parcel 0140, 2nd Section, Marietta, Cobb County, Georgia and being known as 2371 Delk Road:

- 1. The sign(s) shall be built according to and using the materials shown in the drawings submitted by the applicant. (Exhibit 1-7)*
- 2. Variance to allow an off-premise sign for Howard Johnson along the Delk Road frontage. [714.06(A.11) and 714.14(F)]*
- 3. Variance to allow an off-premise sign for Howard Johnson along the Powers Ferry Place frontage. [714.06(A.11) and 714.04(F)]*
- 4. Variance to increase the maximum height of a sign for a shared commercial space from 15 feet to 25 feet along the Delk Road frontage. [714.04 (Table H)]*
- 5. Variance to increase the maximum area of a sign for a shared commercial space from 90 square feet to a square footage exceed 120 square feet along the Delk Road frontage. [714.04 (Table H)]*
- 6. Variance to increase the maximum area of a sign for a shared commercial space from 30 square feet to 50 square feet along the Powers Ferry Place frontage. [714.04 (Table H)]*
- 7. Variance to allow the sign structure to exceed 90 square feet for sign proposed along the Delk Road frontage not to exceed 125 square feet.*

The motion was made by Council member Goldstein, seconded by Council member King, that this matter be Approved as Stipulated. The motion carried by the following vote:

Vote: 7 - 0 – 0

Approved as Stipulated

20100066 V2010-03 Larry Watts & Northcutt Investments, LLC 1312 and 1322 Powder Springs Street

V2010-03 LARRY V. WATTS & NORTHCUTT INVESTMENTS, LLC request a variance for property located in Land Lot 02590, District 19, Parcels 0110 and 0580, 2nd Section of Cobb County, Marietta, Georgia and being known as 1312 and 1322 Powder Springs Street. Variance to reduce the requirements of the Tree Protection and Landscaping regulations for planted border areas and variance to modify the buffer requirements on property zoned CRC, Community Retail Commercial.

Mayor Tumlin called forward those wishing to speak. City Attorney Douglas Haynie explained the rules of order.

Mr. Larry Watts and Floyd Northcutt requested several variances regarding property located at 1312 and 1322 Powder Springs Street. The requested variances included a variance to reduce the requirements of the Tree Protection and Landscaping regulations for planted border areas and variance to modify the buffer requirements on property zoned CRC, Community Retail Commercial.

In depth discussion was held regarding the requested variances.

Ms. Betty Magnes, 981 Wesley Park Drive, and Mrs. Gail Walters, 988 Wesley Park Drive, expressed concern regarding this matter.

Further discussion was held.

Mayor Tumlin closed the public hearing.

Motion to approve the following variances for property located in Land Lot 02590, 19th District, Parcels 0110 and 0580, 2nd Section, Marietta, Cobb County, Georgia and being known as 1312 Powder Springs Street and 1322 Powder Springs Street:

1. Variance to reduce the requirements of the Tree Protection and Landscaping regulations for planted border areas for Tract I, for which one (1) street tree is required area for every 30 lineal feet of roadway within the 10 ft. wide planted border parallel to the roadway. In lieu of planting the three (3) street trees as required, the applicant is granted permission to plant zero (0) trees within the planted border area, but instead the applicant will plant two (2) trees within parking lot islands adjacent to the planted border area. There shall also be three (3) trees planted at the back of the parking lot. [712.08(G)]

2. Variance to modify the required improvements to a required buffer on property zoned CRC, Community Retail Commercial, as stipulated in a variance approved by the Board of Zoning Appeals. In lieu of planting four (4) staggered rows of evergreen trees of various sizes on the existing grassy field to create a buffer, the applicant is required to revise the buffer as shown on the Tree Protection/Tree Replacement Plan (TP-1) prepared by Bilson & Associates dated February 9, 2010, showing appropriate spacing for the proposed buffer trees. [708.16(1)] [710.05]

3. Variance to allow the buffer trees along the Clark property (within a 5 foot buffer) to be planted at the sooner of 1) time of development of Tract 2 or 2) February 1, 2015.

4. Variance that all non-buffer trees shall be planted at the sooner of 1) time of development of Tract 2 or 2) February 1, 2015. Non buffer trees shall include 5 street frontage trees along Powder Springs Road, required parking lot trees, and any additional trees to meet site density requirements at the sooner of 1) time of development of Tract 2 or 2) February 1, 2015. [708.16(1)] [710.05]

5. The trees and the fence for Tract 1 and 2 shall be installed and completed within 60 days.

6. The outlet control structure for the detention pond shall be completed and/or repaired to meet the current design as shown or certified by an engineer that it meets those requirements, as approved by the Public Works Department.

7. The water quality control features shall be installed prior to installing the landscaping and fence for Tract 1 and 2.

The motion was made by Council member Goldstein, seconded by Council member King, that this matter be Approved as Stipulated. The motion carried by the following vote:

Vote: 6 - 0 - 0

Approved as Stipulated

Abstaining: Grif Chalfant

20100164 444 N. Fairground Street

Motion to authorize the acquisition of property owned by Mr. Edward Marcus Ligon on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This matter was Removed

* **20100165 576 N. Fairground Street/642 Allgood Road**

Motion to authorize the acquisition of property owned by Transamerica International on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20100166 582 N. Fairground Street**

Motion to authorize the acquisition of property owned by Alvin G. Bloodworth on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20100168 525 Franklin Road**

Motion to authorize the acquisition of property owned by Hardee's Food Systems, Inc. on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20100169 595 Franklin Road**

Motion to authorize the acquisition of property owned by Focus Seven, LLC on behalf of the City of Marietta by means of eminent domain. A description of the interest to be acquired is attached hereto and incorporated herein by reference, including the legal description of the property and a survey of such property. The city attorney is hereby authorized and directed to take any and all action necessary to acquire such property by virtue of eminent domain, including the right to file any appeals in such case. The Order Authorizing Condemnation attached is incorporated herein by reference.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20100110 BLW Actions of February 8, 2010**

Review and approval of the February 8, 2010 actions and minutes of the Marietta Board of Lights and Water.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20100174 Settlement Agreements -567 Roswell Street**

Motion to authorize the City Attorney to finalize settlement agreements with Brides by Gladys and Miracle Masterpiece (tenants in property known as 567 Roswell Street) in the amount of \$22,500.00 each and to authorize the City Attorney to execute any and all documents necessary to finalize the settlements.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20100181 Marietta Redevelopment Corporation contract discussion.**

Motion to convert the employment status of the Executive Director of the Marietta Redevelopment Corporation from an employment contract to regular employee status as a department head and to provide notice of same to such employee.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0 Approved

* **20100184 Property Acquisition - 619 North Fairground Street**

Motion authorizing acquisition of right of way and temporary construction easement at 619 North Fairground Street from Moreland Shopette, LLC for the purpose of Fairground Street Improvements in exchange for \$65,101 which includes compensation for removal of existing sign and construction of new monument style sign by Moreland Shopette, LLC meeting current City of Marietta ordinances.

This Matter was Approved on the Consent Agenda.

Vote: 7 - 0 – 0

Approved

ADJOURNMENT:

The meeting was adjourned at 8:53 p.m.

Date Approved: March 10, 2010

R. Steve Tumlin, Mayor

Attest: _____
Stephanie Guy, City Clerk